United Nations CEDAW/C/VUT/CO/4-5

# Convention on the Elimination of All Forms of Discrimination against Women

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**Committee on the Elimination of Discrimination against Women**

## Concluding observations on the combined fourth and fifth periodic reports of Vanuatu*

1. The Committee considered the combined fourth and fifth periodic reports of Vanuatu (CEDAW/C/VUT/4-5) at its 1387th and 1388th meetings, on 24 February 2016 (see CEDAW/C/SR.1387 and 1388). The Committee's list of issues and questions is contained in CEDAW/C/VUT/Q/4-5 and the responses of Vanuatu are contained in CEDAW/C/VUT/Q/4-5/Add.1.

### A. Introduction

2. The Committee welcomes the combined fourth and fifth periodic reports of the State party. It appreciates the written replies to the list of issues and questions raised by the pre-sessional working group and the open and constructive exchange with the delegation during the dialogue.

3. The Committee commends the State party on its delegation, which was headed by the Director of the Department of Women's Affairs, Dorosday Kenneth, and included representatives of the Treaties and Conventions Division, the State Law Office, the Ministry of Health, the Ministry of Education and Training and the Ministry of Justice and Community Services.

### B. Positive aspects

4. The Committee welcomes the progress achieved since the consideration in 2007 of the State party's combined initial, second and third periodic reports (CEDAW/C/VUT/1-3) in undertaking legislative reforms, in particular the adoption of the following legislation:

(a) Amendment to the Municipalities Act, in 2013;

(b) Customary Land Management Act No. 33, in 2013, ensuring that women's rights to customary land are not alienated;

* Adopted by the Committee at its sixty-third session (15 February-4 March 2016).



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(c) Family Protection Act, in 2008, criminalizing domestic violence and providing for protection orders specific to family violence.

5. The Committee welcomes the State party's efforts to improve its institutional and policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality, in particular the adoption of the following:

(a) National Gender Equality Policy (2015-2019);

(b) Reproductive Health Policy (2015) and its Implementation Strategy (2016-2018), which increase women's access to sexual and reproductive health services in the State party;

(c) National Law and Justice Sector Strategy (2010-2017), addressing women's rights and discrimination against women;

(d) Gender Equity in Education Policy (2005-2015).

6. The Committee notes with satisfaction that, in the period since the consideration of the previous reports, the State party has ratified or acceded to the following international instruments:

(a) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2011;

(b) International Covenant on Civil and Political Rights, in 2008;

(c) Convention on the Rights of Persons with Disabilities, in 2008.

## C. Principal areas of concern and recommendations

### Parliament

**7. The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see the statement by the Committee on its relationship with parliamentarians, adopted at the forty-fifth session, in 2010). It invites Parliament, in line with its mandate, to take the necessary steps regarding the implementation of the present concluding observations between now and the next reporting period under the Convention.**

### Constitutional and legislative protection of women from discrimination

8. The Committee welcomes the information provided by the delegation during the dialogue to the effect that the Convention has been incorporated into the State party's national legal system and can be directly applied by the courts. It notes with concern, however, that the State party has taken no steps to amend its Constitution with a view to incorporating the principle of equality of women and men and defining and prohibiting all forms of sex- and gender-based discrimination, including direct and indirect discrimination by private or public actors.

**9. The Committee reiterates its previous recommendation (see CEDAW/C/VUT/CO/3, para. 11) that the State party give central importance to the Convention as the basis for the elimination of all forms of discrimination against women and the achievement of gender equality. It recommends that the State party amend its Constitution and other appropriate legislation to**

**incorporate fully and without delay the principle of equality between women and men, as well as a prohibition of discrimination on the basis of sex and gender, in line with articles 1 and 2 of the Convention, covering direct and indirect discrimination in both the public and private spheres.**

**Access to justice**

10. The Committee recalls that the Constitution recognizes customary law as part of the State party's law, and hence customary law and the formal justice system exist side by side. It notes the establishment of a high-level working group to address women's access to justice, and that legal assistance is provided through the Public Solicitor's Office. The Committee remains concerned, however, about women's limited access to justice, in particular on the outer islands, due to their limited knowledge about their rights and limited access to legal assistance. It is also concerned about the difficulties that women face in obtaining effective remedies and redress in both the traditional and formal justice systems, and about the lack of study on this dual legal system. The Committee is further concerned about the lack of procedural accommodation by the justice system for women and girls with disabilities, such as through accessible information, the provision of sign language interpreters and alternative forms of communication.

11. **The Committee recommends that the State party:**

(a) **Raise women's awareness of their rights and of the means to enforce them, in cooperation with civil society organizations, in particular on the outer islands;**

(b) **Establish effective remedies in both the formal and traditional justice systems to enable women to obtain redress for violations of their rights, provide capacity-building to judges, lawyers and law enforcement officers on women's rights and undertake research on the impact of the dual justice system on women's access to justice;**

(c) **Develop a strategy with clear time frames to ensure that traditional justice mechanisms comply with the human rights standards set forth in the Convention when addressing complaints by women. The strategy should include capacity-building and training programmes on the Convention and on women's human rights for traditional justice authorities.**

(d) **Allocate further resources to enhancing the infrastructure, quality and accessibility of the formal justice system, especially on the outer islands.**

**National machinery for the advancement of women**

12. The Committee welcomes the restructuring of the Department of Women's Affairs and its proposed conversion into a ministry. It remains concerned, however, about the insufficient human, technical and financial resources allocated to the Department to date to coordinate and work effectively for the promotion of gender equality and gender mainstreaming in all policies and programmes across all sectors and levels of government.

13. **The Committee recommends that the State party expedite the upgrading of the Department of Women's Affairs into a ministry and provide it with adequate human, technical and financial resources to enable it to develop**

**sustainable policies and comprehensive programmes aimed at achieving gender equality, to effectively coordinate gender mainstreaming at all levels of government and to provide systematic training to government officials on the Convention and the Committee's general recommendations.**

**National human rights institution**

14. The Committee welcomes the information received from the delegation during the dialogue to the effect that a study on the establishment of a national human rights commission is under way. It remains concerned, however, about the delays in creating such an institution with a broad mandate, including women's rights, in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

15. **The Committee recommends that the State party establish, within a clear time frame, an independent national human rights institution, in compliance with the Paris Principles, to monitor, inter alia, the respect for and promotion of women's rights and gender equality.**

**Temporary special measures**

16. The Committee welcomes the amendment of the Municipalities Act in 2013, which introduced a 30 per cent quota for women's representation in all municipal councils. It notes with concern, however, the absence of temporary special measures as a systematic component to accelerate the substantive equality of women and men in other areas covered by the Convention in which women are underrepresented or disadvantaged, such as education, employment and economic life.

17. **In line with the Committee's general recommendation No. 25 (2004) on temporary special measures, the Committee recommends that the State party:**

(a) **Adopt specific and results-oriented measures, such as quota systems, numerical goals with timetables, preferential treatment and outreach and support programmes for women, and targeted recruitment, hiring and promotion, in all areas covered by the Convention in which women are underrepresented or disadvantaged, such as education, employment and economic life;**

(b) **Disseminate information to all branches of government on the nature and scope of temporary special measures, with a view to familiarizing them with the concept of such measures, and encourage and support their application.**

**Stereotypes and harmful practices**

18. The Committee takes note of the information given by the delegation during the dialogue on current initiatives to eliminate gender stereotypes in school curricula and education materials. It notes the National Law and Justice Sector Strategy (2010-2017), which includes strategic areas for addressing women's rights and discrimination against women. The Committee is concerned, however, at the persistence of discriminatory gender stereotypes and patriarchal attitudes regarding the roles and responsibilities of women and men in society and in the family, which prevent women from asserting their rights and actively participating in decision-making and other aspects of political and public life. The Committee is particularly

concerned about the insufficient measures taken to address the prevalence of such discriminatory stereotypes.

19. **The Committee urges the State party:**

(a) **To put in place, without delay, a comprehensive strategy to eliminate patriarchal attitudes and stereotypes that discriminate against women, in conformity with the provisions of the Convention. The strategy should include education and awareness-raising campaigns targeting women and men at all levels of society, including council chiefs and community leaders, and focus particular attention on the recognition of the importance of women's contributions to society, their empowerment and their participation in decision-making processes, including at the community level. The strategy should engage civil society organizations and the mass media to combat discriminatory stereotypes and negative social attitudes towards women and promote positive and non-stereotypical portrayals of women;**

(b) **To integrate the principles of non-discrimination and gender equality into mandatory and continuing education for teachers, health-care professionals and service providers;**

(c) **To set up a system of monitoring and evaluation to assess the impact of the measures taken to eliminate stereotypes.**

**Violence against women**

20. The Committee welcomes the adoption of the Family Protection Act (2008), which criminalizes domestic violence and provides for protection orders. It is deeply concerned, however, at the pervasive levels of domestic violence in the State party and the lenient sentences for perpetrators regardless of the severity of the offence. The Committee is equally concerned that the prevalence of sexual abuse of girls under 15 years of age is one of the highest in the world, and that nearly 1 in 3 women has been sexually abused before that age, mostly by male family members and partners. It is further concerned about the persistence of harmful practices such as bride price and accusations of witchcraft against women that lead to them being subjected to violence or murdered.

21. **The Committee urges the State party:**

(a) **To ensure that women who are victims of domestic violence have full access to protection orders and legal remedies;**

(b) **To provide assistance to victims of gender-based violence, including medical and psychological support and shelter, counselling and rehabilitation services, throughout its territory;**

(c) **To ensure that perpetrators are prosecuted and adequately punished with sentences that are commensurate with the seriousness of their crimes, in accordance with the Committee's general recommendation No. 19 (1992) on violence against women;**

(d) **To put an end to the application of customary law that provides for the payment of bride prices;**

(e) **To take immediate and effective measures to investigate incidents of violence and murder of women and girls based on accusations of witchcraft or**

**sorcery, to prosecute and punish the perpetrators of such acts and to prevent their reoccurrence in the future.**

**Trafficking and exploitation of prostitution**

22. The Committee is concerned at the absence of a law to prevent, suppress and punish trafficking in persons, in particular women and girls. It is also concerned at the lack of data on trafficking and exploitation of prostitution and that no comprehensive research is being undertaken on the phenomenon in the State party.

23. **The Committee recommends that the State party:**

(a) **Adopt, without delay, a law to prevent, suppress and punish trafficking in persons, in particular women and girls, and ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;**

(b) **Carry out a study on the prevalence of trafficking in women and girls and exploitation of prostitution in the State party;**

(c) **Provide capacity-building for law enforcement officers and legal practitioners on early referral of and gender-sensitive procedures and assistance to victims of trafficking in persons.**

**Participation in political and public life**

24. The Committee welcomes the study on the gender profile of political parties and elections in the State party, of 2010, the nationwide survey on women's representation and leadership undertaken in 2015 and the women's leadership database that has been created. It remains concerned, however, about:

(a) Women's underrepresentation in political and public life, especially at the decision-making level and in Parliament, the judiciary, the foreign service and traditional customary structures;

(b) Systematic barriers such as inadequate capacity-building and limited campaign funding and logistical support for potential women candidates, impeding women's equal participation in political life;

(c) The absence of voting rights for women representatives on provincial councils and the failure to effectively enforce the 30 per cent minimum quota for women's representation on municipal councils.

25. **In line with the Committee's general recommendation No. 23 (1997) on women in political and public life, the Committee recommends that the State party:**

(a) **Enact legislation to reserve at least 30 per cent of seats in Parliament for women, encourage the creation of a special parliamentary committee on women's rights and gender equality and implement the recommendations of the 2010 study on the gender profile of political parties and elections and the national survey of 2015;**

(b) **Adopt targeted measures, such as training, capacity-building, gender-sensitive recruitment and temporary special measures in line with**

**article 4 (1) of the Convention, to increase the percentage of women in appointed government positions, the foreign service and the judiciary, in particular at the senior level;**

**(c) Promote women's participation in customary bodies;**

**(d) Ensure that women representatives on provincial councils have voting rights equal to those of men;**

**(e) Establish a mechanism to effectively monitor the implementation of minimum quotas for women's representation in elected and appointed bodies and adopt sanctions for non-compliance with such quotas;**

**(f) Conduct awareness-raising campaigns for politicians, journalists, teachers and traditional and community leaders, especially men, on the need to accelerate the realization of women's substantive equality with men and to enhance understanding that the full, free and democratic participation of women on an equal basis with men in political and public life is a requirement for the full implementation of the Convention.**

### Education

26. The Committee welcomes the progress achieved in increasing the enrolment and completion rates of girls at the primary level and the National Curriculum Statement 2010, which integrates gender aspects across all curricula, teachers' guides and learning materials. However, the Committee notes with concern:

(a) The high dropout rates among girls at the secondary level of education, from which some 50 per cent of girls enrolled drop out between grades 7 and 11;

(b) The absence of a law guaranteeing the right of pregnant women and girls to return to school after giving birth;

(c) The indirect costs of schooling at the primary and secondary levels, such as costs of transport, which affect girls disproportionately, given that parents with limited means often give priority to the schooling of their sons;

(d) The reported incidents of sexual violence in schools involving both male teachers and pupils and the absence of any protocols for school authorities to handle such cases;

(e) The very limited number of girls applying for tertiary education scholarships, notwithstanding the existence of 50/50 allocation guidelines;

(f) The delay by the qualification authority in providing verification of the family life education curriculum.

27. **The Committee recommends that the State party:**

**(a) Reduce the high dropout rates of girls from secondary education, take effective measures to retain girls in school and increase their attendance through financial assistance in the form of scholarships, the free provision of textbooks, the provision of affordable school transport, especially in remote areas, and an increase in the number of dormitories for girls;**

**(b) Ensure that girls are not expelled from school on grounds of pregnancy, that young mothers may return to school after giving birth and that**

**appropriate sanctions are imposed if their right to education is denied; adopt re-entry and inclusive education laws enabling pregnant girls, young mothers and married girls under 18 years of age to remain in or return to school; and facilitate the return to school of young mothers through support services, including childcare services;**

**(c) Adopt a zero-tolerance policy and a protocol for school authorities and teachers for handling cases of sexual violence against women and girls in schools in a gender-sensitive manner;**

**(d) Ensure the speedy verification of the family life education curriculum and introduce, without further delay, age-appropriate education on sexual and reproductive health and rights and responsible sexual behaviour for girls and boys;**

**(e) Step up efforts to provide girls with career counselling that orients them to enrol in tertiary education and ensure the enforcement of the 50/50 allocation guidelines for scholarships for girls.**

### Employment

28. The Committee notes the information received from the delegation during the dialogue to the effect that wage inspectors have been appointed and that an employment relations bill is being prepared. It is deeply concerned, however, that the State party is one of seven Pacific States at the bottom of the world rankings relating to the implementation and enforcement of gender-related equal pay and non-discrimination legislation. The Committee also notes with concern that most women are self-employed or employed in the informal sector, without appropriate legal protection or social security coverage, and that sexual harassment in the workplace is not criminalized in the State party.

29. **The Committee recommends that the State party:**

**(a) Urgently adopt comprehensive legislation to combat discrimination in the workplace and promote equal opportunities for and the equal treatment of women in employment in both the public and private sectors;**

**(b) Adopt programmes aimed at reducing women's unemployment and promoting their access to employment in the formal sector with adequate social security coverage, and monitor the working conditions of self-employed women and women in the informal economy and ensure that they have access to social protection, including maternity protection;**

**(c) Urgently adopt legislation criminalizing sexual harassment in the workplace and establish effective complaint mechanisms.**

### Health

30. The Committee welcomes the adoption of the Reproductive Health Policy (2015) and its Implementation Strategy (2016-2018), but notes with concern:

(a) The limited access of women and girls, especially those living in remote areas, to health services and contraceptives, the lack of trained health-care professionals and the limited access to medical treatment and rehabilitation services for victims of gender-based violence;

(b) The high number of early pregnancies;

(c) Barriers preventing women and girls with disabilities from having full access to health-care services, including sexual and reproductive health services.

31. **In line with general recommendation No. 24 (1999) on women and health, the Committee recommends that the State party:**

**(a) Adopt measures to ensure that health services are available throughout the territory of the State party, including on the outer islands, through partnerships to develop adequate facilities, and increase the number of trained health-care professionals and access to contraceptives and information on family planning;**

**(b) Develop protocols to support the response to and management and referral of cases of physical or sexual violence and ensure the provision of skilled medical aid to women and girls who are victims of violence;**

**(c) Educate women and girls as well as men and boys on responsible sexual behaviour and the prevention of early pregnancy and sexually transmitted diseases;**

**(d) Ensure access to mainstream health services, including sexual and reproductive health services, for women and girls with disabilities, especially in remote areas, and train health professionals on the specific needs of women and girls with disabilities.**

### Access to land

32. The Committee notes the adoption of the Customary Land Management No. Act 33 (2013), and the Supreme Court decisions in *Joli v. Joli* and *Noel v. Toto*, ruling on women's equal rights to land and on the division of matrimonial property. The Committee remains concerned, however, that the State party's customary land ownership system does not guarantee women equal rights to land ownership and inheritance.

33. **The Committee calls upon the State party to ensure that women have equal rights to land ownership and land inheritance and to eliminate discriminatory customs and traditional practices that affect the full enjoyment of those rights, including by ensuring that local customary leaders and magistrates in the Lands Court are trained to uphold women's land rights at the community level.**

### Women with disabilities

34. The Committee takes note of the review of the National Disability Policy and Plan of Action (2008-2015), which allowed for the recognition of the specific needs of women and girls with disabilities. It is concerned, however, about the lack of specific measures taken to protect the rights of women and girls with disabilities, including their rights to inclusive education, employment and health care, and about the absence of mechanisms to protect them from multiple and intersecting forms of discrimination. The Committee is also concerned that women and girls with disabilities are not systematically involved in decisions that affect their lives and do not have the opportunity to express their opinion on matters that affect them directly.

35. **The Committee calls upon the State party to adopt a new national disability policy and plan of action that include mechanisms to protect the rights of women and girls with disabilities, including effective and accessible complaint mechanisms, and ensure their right to inclusive education and their equal access to employment, health care and other services. It also calls upon the State party to promote the full inclusion of women and girls with disabilities by:**

(a) **Establishing a formal consultation mechanism to ensure that women and girls with disabilities throughout the country and their representative organizations are meaningfully consulted in decision-making processes that affect their rights and interests;**

(b) **Taking specific steps to mainstream the rights of women and girls with disabilities across all laws, policies and programmes regarding gender equality.**

**Impact of climate change and natural disasters on women**

36. The Committee recalls the vulnerability of the State party to serious environmental and climate change and natural disasters and welcomes the Climate Change and Disaster Risk Reduction Policy (2016-2030). In that regard, it is concerned that the impact of climate change, the rise in the sea level and other climate-related disasters affect rural women disproportionately, given that they rely heavily on access to natural resources for their daily survival. The Committee is also concerned that women are not informed of or given opportunities to participate in policymaking and decision-making processes on climate change and disaster risk reduction initiatives.

37. **The Committee recommends that the State party ensure that women, including those living on the outer islands, are included and may actively participate in planning, decision-making and implementation processes concerning disaster risk reduction, post-disaster management and climate change policies.**

**Marriage and family relations**

38. The Committee notes the review of discriminatory laws undertaken by the Law Reform Commission in order to propose amendments as part of its programme of comprehensive family law reform. It also notes the statement made by the delegation during the dialogue that the provisions of civil law are prominent in case of dissolution of marriage. It is concerned, however, that no amendment has been made to the Control of Marriage Act in order to increase the minimum age of marriage from 16 to 18 years for women. It is also concerned that polygamy is not prohibited in the State party and that the registration of customary marriages is not mandatory, which prevents women from claiming their legal rights.

39. **The Committee recommends that the State party:**

(a) **Expedite the review of discriminatory provisions in the area of family law within a specific time frame and ensure that both spouses have equal rights and responsibilities during marriage and upon its dissolution, in line with the Committee's general recommendation No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution;**

**(b) Amend without delay the Control of Marriage Act to increase the minimum age of marriage for women to 18 years;**

**(c) Take measures to discourage polygamy with a view to prohibiting it, in accordance with joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices (2014);**

**(d) Take measures to ensure that all customary marriages are registered by civil registry offices.**

**Data collection and analysis**

40. The Committee welcomes the establishment of a working group on gender statistics, data collection and dissemination, but remains concerned about the general lack of data disaggregated by sex in all areas covered by the Convention, in particular with regard to the situation of rural women and women with disabilities.

41. **The Committee calls upon the State party to give priority to the systematic collection of comprehensive sex-disaggregated data and measurable indicators to assess trends in the situation of women, including rural women and women with disabilities, and the progress made in achieving substantive equality, and draws the State party's attention to the Committee's general recommendation No. 9 (1989) on statistical data concerning the situation of women.**

**Beijing Declaration and Platform for Action**

42. **The Committee calls upon the State party to use the Beijing Declaration and Platform for Action in its efforts to implement the provisions of the Convention.**

**2030 Agenda for Sustainable Development**

43. **The Committee calls for the realization of substantive gender equality, in accordance with the provisions of the Convention, throughout the process of implementation of the 2030 Agenda for Sustainable Development.**

**Dissemination**

44. **The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official languages of the State party, to the relevant State institutions at all levels (national, regional and local), in particular to the Government, the ministries, Parliament and the judiciary, to enable their full implementation.**

**Technical assistance**

45. **The Committee recommends that the State party link the implementation of the Convention to its development efforts and that it avail itself of regional or international technical assistance in this respect.**

**Ratification of other treaties**

46. **The Committee notes that the adherence of the State party to the nine major international human rights instruments[1] would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to consider ratifying the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, to which it is not yet a party.**

**Follow-up to concluding observations**

47. **The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 21 (a), (b) and (c) and 37 above.**

**Preparation of the next report**

48. **The Committee invites the State party to submit its sixth periodic report in March 2020.**

49. **The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (HRI/GEN/2/Rev.6, chap. I).**

[1] The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.